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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

SAM ABBOUD,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION, JOE SMYTH; JOHN DOE #1;
JOHN DOE #2; DOES 1-48,

Defendants.

Case No.: C04-00017 JW

**STIPULATION TO DISMISS
DEFENDANT JOE SMYTH WITHOUT
PREJUDICE; [PROPOSED] ORDER**


STIPULATION

Pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Sam Abboud and Defendants International Business Machines Corporation and Joe Smyth, through their respective counsel of record, as follows:

Defendant Joe Smyth is hereby dismissed from this action without prejudice.

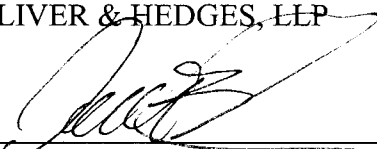
ROBERT DAVID BAKER, INC.

Dated: 4-26-05


Robert David Baker
Attorney for Plaintiff Sam Abboud

Dated: 5/16/05

QUINN EMANUEL URQUHART
OLIVER & HEDGES, LLP


Scott G. Lawson
Attorney for Defendant International
Business Machines Corporation and
Joe Smyth

ORDER

Pursuant to the foregoing Stipulation to Dismiss Defendant Joe Smyth Without Prejudice, and good cause having been shown,

IT IS HEREBY ORDERED that Defendant Joe Smyth is dismissed from the action without prejudice.

Dated: 9/1/05

/s/ James Ware

JAMES WARE
United States District Judge